



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-867, A-560-833, A-580-902, A-552-825]

Utility Scale Wind Towers from Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable July 29, 2019.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney at (202) 482-4475 (Canada); Brittany Bauer (202) 482-3860 (Indonesia); Rebecca Janz at (202) 482-2972 (Republic of Korea (Korea)); and Edythe Artman at (202) 482-3931 (Socialist Republic of Vietnam (Vietnam));

AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On July 9, 2019, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of utility scale wind towers (wind towers) from Canada, Indonesia, Korea, and Vietnam, filed in proper form on behalf of the Wind Tower Trade Coalition (the petitioner).¹ The Petitions were accompanied by countervailing duty (CVD) petitions concerning imports of wind towers from Canada, Indonesia, and Vietnam.

¹ See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties on Utility Scale Wind Towers from Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam," dated July 9, 2019 (the Petitions).

During the period July 12 through 22, 2019, Commerce requested supplemental information pertaining to certain aspects of the Petitions in separate supplemental questionnaires.² The petitioner filed responses to the supplemental questionnaires between July 16 and 24, 2019.³

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of wind towers from Canada, Indonesia, Korea, and Vietnam are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the domestic wind tower industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

² See Commerce's Letters, "Petitions for the Imposition of Antidumping Duties on Imports of Utility Scale Wind Towers from Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam and Countervailing Duties on Imports of Utility Scale Wind Towers from Canada, Indonesia, and the Socialist Republic of Vietnam: Supplemental Questions," dated July 12, 2019; and, "Petition for the Imposition of Antidumping Duties on Imports of Utility Scale Wind Towers from Canada: Supplemental Questions," "Petition for the Imposition of Antidumping Duties on Imports of Utility Scale Wind Towers from Indonesia: Supplemental Questions," "Petition for the Imposition of Antidumping Duties on Imports of Utility Scale Wind Towers from the Republic of Korea: Supplemental Questions," and "Petition for the Imposition of Antidumping Duties on Imports of Utility Scale Wind Towers from the Socialist Republic of Vietnam: Supplemental Questions," all dated July 15, 2019; *see also* Memoranda, "Phone Call with Counsel to the Petitioner," dated July 15, 2019; "Phone Call with Counsel to the Petitioner," dated July 18, 2019; and, "Phone Call with Counsel to the Petitioner," dated July 22, 2019.

³ See Petitioner's Letters, "Utility Scale Wind Towers from Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam: Responses to First Supplemental Questions on Common Issues and Injury Volume I of the Petition," dated July 16, 2019 (General Issues Supplement); "Utility Scale Wind Towers from Canada: Responses to First Supplemental Questions on Canada Volume II of the Petition," "Utility Scale Wind Towers from Indonesia: Responses to First Supplemental Questions on Indonesia Volume III of the Petition," and "Utility Scale Wind Towers from the Socialist Republic of Vietnam: Responses to First Supplemental Questions on Vietnam Volume V of the Petition," each dated July 18, 2019; "Utility Scale Wind Towers from the Republic of Korea: Responses to First Supplemental Questions on Korea Volume IV of the Petition," dated July 19, 2019; "Utility Scale Wind Towers from Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam: Responses to Second Supplemental Questions on Common Issues and Injury Volume I of the Petition," dated July 19, 2019 (Scope Supplement); "Utility Scale Wind Towers from Canada: Responses to Second Supplemental Questions on Canada Volume II of the Petition," "Utility Scale Wind Towers from Indonesia: Responses to Second Supplemental Questions on Indonesia Volume III of the Petition," "Utility Scale Wind Towers from the Republic of Korea: Responses to Second Supplemental Questions on Volume IV of the Petition," and "Utility Scale Wind Towers from the Socialist Republic of Vietnam: Responses to Second Supplemental Questions on Vietnam Volume V of the Petition," each dated July 24, 2019.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(E) of the Act.

Commerce also finds that the petitioner demonstrated sufficient industry support necessary for the initiation of the requested AD investigations.⁴

Periods of Investigation

Because the Petitions were filed on July 9, 2019, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the Canada, Indonesia, and Korea investigations is July 1, 2018 through June 30, 2019. Because Vietnam is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the POI for the Vietnam investigation is January 1, 2019 through June 30, 2019.

Scope of the Investigations

The product covered by these investigations is wind towers from Canada, Indonesia, Korea, and Vietnam. For a full description of the scope of these investigations, *see* the Appendix to this notice.

Scope Comments

During our review of the Petitions, we contacted the petitioner regarding the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.⁵ As a result, the scope of the Petitions was modified to clarify the description of the merchandise covered by the Petitions. The description of the merchandise covered by these investigations, as described in the Appendix to this notice, reflects these clarifications.

⁴ See the “Determination of Industry Support for the Petitions” section, *infra*.

⁵ See General Issues Supplement; *see also* Memorandum, “Phone Call with Counsel to the Petitioner,” dated July 18, 2019; and Scope Supplement.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).⁶ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,⁷ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on August 19, 2019, which is 20 calendar days from the signature date of this notice.⁸ Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on August 29, 2019, which is 10 calendar days from the initial comment deadline.⁹

Commerce requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such comments must also be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service

⁶ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁷ See 19 CFR 351.102(b)(21) (defining "factual information").

⁸ Because the deadline falls on a Sunday (*i.e.*, August 18, 2019), the deadline becomes the next business day (*i.e.*, August 19, 2019).

⁹ See 19 CFR 351.303(b).

System (ACCESS).¹⁰ An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of wind towers to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to develop appropriate product-comparison criteria, as well as to report the relevant factors of production (FOPs) accurately.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) general product characteristics, and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe wind towers, it may be that only a select few product characteristics take into account commercially

¹⁰ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on August 19, 2019, which is 20 calendar days from the signature date of this notice.¹¹ Any rebuttal comments must be filed by 5:00 p.m. ET on August 29, 2019. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the AD investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

¹¹ See 19 CFR 351.303(b). Because the deadline falls on a Sunday (*i.e.*, August 18, 2019), the deadline becomes the next business day (*i.e.*, August 19, 2019).

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the Act directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹² they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹³

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the Petitions.¹⁴ Based on our analysis of the information submitted on the record, we have determined that wind towers, as defined in the

¹² See section 771(10) of the Act.

¹³ See, *e.g.*, *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

¹⁴ See Volume I of the Petitions, at 17-18 and Exhibits I-9 and I-14; see also General Issues Supplement, at 1-2 and Exhibit I-Supp-2; and Scope Supplement, at 1 and Exhibit I-Supp2-1.

scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁵

On July 26, 2019, we received industry support challenges from Marmen Energy Co. (Marmen) and Vestas Towers America, Inc. (Vestas), U.S. producers of wind towers.¹⁶ On July 29, 2019, the petitioner responded to the standing challenges from Marmen and Vestas.¹⁷ Based on information provided in the Petitions and in the letters from Marmen and Vestas, the share of total U.S. production of the domestic like product in calendar year 2018 represented by the supporters of the Petitions did not account for more than 50 percent of the total production of the domestic like product. Therefore, in accordance with section 732(c)(4)(D) of the Act, we relied on other information to determine industry support.¹⁸ In determining whether the petitioner has standing under sections 732(c)(4)(A) and 732(c)(4)(D) of the Act, we considered the industry support data contained in the Petitions and other information on the record with reference to the domestic like product as defined in the “Scope of the Investigations,” in the Appendix to this notice. To establish industry support, the petitioner provided its own 2018 production of the

¹⁵ For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* Antidumping Duty Investigation Initiation Checklist: Utility Scale Wind Towers from Canada (Canada AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Utility Scale Wind Towers from Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam (Attachment II); Antidumping Duty Investigation Initiation Checklist: Utility Scale Wind Towers from Indonesia (Indonesia AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Utility Scale Wind Towers from the Republic of Korea (Korea AD Initiation Checklist), at Attachment II; and Antidumping Duty Investigation Initiation Checklist: Utility Scale Wind Towers from the Socialist Republic of Vietnam (Vietnam AD Initiation Checklist), at Attachment II. These checklists are dated concurrently with this notice and are on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Commerce building.

¹⁶ *See* Marmen’s Letter, “Utility Scale Wind Towers from Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam: Standing Challenge,” dated July 26, 2019 (Marmen Letter); *see also* Vestas’ Letter, “Utility Scale Wind Towers from Canada, Indonesia, South Korea, and Vietnam: Vestas Towers America, Inc.’s Comments on Industry Support,” dated July 26, 2019 (Vestas Letter).

¹⁷ *See* Petitioner’s Letter, “Utility Scale Wind Towers from Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam: Response to Standing Challenge and Comments on Industry Support,” dated July 29, 2019 (Petitioner Letter).

¹⁸ For further discussion, *see* Canada AD Initiation Checklist, at Attachment II; *see also* Indonesia AD Initiation Checklist, at Attachment II; Korea AD Initiation Checklist, at Attachment II; and Vietnam AD Initiation Checklist, at Attachment II.

domestic like product, as well as the 2018 production by the supporters of the Petitions. Other information on the record establishes the total 2018 production of other U.S. producers of the domestic like product.

Section 732(c)(4)(B) of the Act states that (i) Commerce “shall disregard the position of domestic producers who oppose the petition if such producers are related to foreign producers, as defined in section 771(4)(B)(ii), unless such domestic producers demonstrate that their interests as domestic producers would be adversely affected by the imposition of an antidumping duty order;” and (ii) Commerce “may disregard the position of domestic producers of a domestic like product who are importers of the subject merchandise.” In addition, 19 CFR 351.203(e)(4) states that the position of a domestic producer that opposes the petition (i) will be disregarded if such producer is related to a foreign producer or to a foreign exporter under section 771(4)(B)(ii) of the Act, unless such domestic producer demonstrates to the Secretary’s satisfaction that its interests as a domestic producer would be adversely affected by the imposition of an antidumping order; and (ii) may be disregarded if the producer is an importer of the subject merchandise or is related to such an importer under section 771(4)(B)(ii) of the Act. Certain producers of the domestic like product that opposed the Petitions are related to foreign producers and/or imported subject merchandise from the subject countries. We have analyzed the information provided by the petitioner and information provided in the submissions from Marmen and Vestas. Based on our analysis, we have determined that it is appropriate to disregard the opposition to the Petitions from certain producer(s) pursuant to section 732(c)(4)(B) of the Act. When the opposition to the Petitions is disregarded, the industry support requirements of section 732(c)(4)(A) of the Act are satisfied.¹⁹

¹⁹ See Canada AD Initiation Checklist, at Attachment II; *see also* Indonesia AD Initiation Checklist, at Attachment

Based on our analysis and review of the information on the record, we have determined that the petitioner has established industry support for the Petitions.²⁰ The information on the record demonstrates that the domestic producers of wind towers who support the Petitions account for at least 25 percent of the total production of the domestic like product and, once certain opposition is disregarded, account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.²¹ Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports from Canada, Indonesia, Korea, and Vietnam each exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²²

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; lost sales and lost revenues; underselling and price depression or suppression; negative impact on the domestic industry's production, shipments, capacity utilization, and employment; and declining financial performance.²³ We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, cumulation, as well as negligibility, and we have

II; Korea AD Initiation Checklist, at Attachment II; and Vietnam AD Initiation Checklist, at Attachment II.

²⁰ See Canada AD Initiation Checklist, at Attachment II; *see also* Indonesia AD Initiation Checklist, at Attachment II; Korea AD Initiation Checklist, at Attachment II; and Vietnam AD Initiation Checklist, at Attachment II.

²¹ See Canada AD Initiation Checklist, at Attachment II; *see also* Indonesia AD Initiation Checklist, at Attachment II; Korea AD Initiation Checklist, at Attachment II; and Vietnam AD Initiation Checklist, at Attachment II.

²² See Volume I of the Petitions, at 31-32 and Exhibit I-17.

²³ *Id.* at 15-16, 20-48 and Exhibits I-4, I-6, I-8, I-9, I-14, I-17 and I-19 through I-28.

determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁴

Allegations of Sales at LTFV

The following is a description of the allegation of sales at LTFV upon which Commerce based its decision to initiate AD investigations of imports of wind towers from Canada, Indonesia, Korea, and Vietnam. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the AD Initiation Checklist for each country.

Export Price

For Canada, Indonesia, Korea, and Vietnam, the petitioner based export price (EP) on sales of wind towers produced in, and exported from, those countries and sold in the United States, valued using the average unit values (AUVs) of publicly available import data.²⁵ For Canada, the petitioner also calculated EP based upon a sales offer from a Canadian producer.²⁶

Normal Value

For Canada, Indonesia, and Korea, the petitioner was unable to obtain information relating to the prices charged for wind towers in Canada, Indonesia, Korea, or any third country market.²⁷ Because home market and third country prices were not reasonably available, the

²⁴ See Canada AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Utility Scale Wind Towers from Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam (Attachment III); see also Indonesia AD Checklist, at Attachment III; Korea AD Initiation Checklist, at Attachment III; and Vietnam AD Initiation Checklist, at Attachment III.

²⁵ See Canada AD Initiation Checklist; Indonesia AD Initiation Checklist; Korea AD Initiation Checklist; and Vietnam AD Initiation Checklist.

²⁶ See Canada AD Initiation Checklist.

²⁷ See Canada AD Initiation Checklist; Indonesia AD Initiation Checklist; and Korea AD Initiation Checklists.

petitioner calculated NV based on constructed value (CV). For further discussion of CV, *see* the section “Normal Value Based on Constructed Value.”²⁸

With respect to Vietnam, Commerce considers Vietnam to be an NME country.²⁹ In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by Commerce. Therefore, we continue to treat Vietnam as an NME for purposes of the initiation of this investigation. Accordingly, NV in Vietnam is appropriately based on FOPs and surrogate financial ratios from a surrogate market economy country, in accordance with section 773(c) of the Act.³⁰

The petitioner claims that India is an appropriate surrogate country for Vietnam, because it is a market economy country that is at a level of economic development comparable to that of Vietnam, it is a significant producer of comparable merchandise, and public information from India is available to value all material input factors.³¹ Based on the information provided by the petitioner, we determine that it is appropriate to use India as a surrogate country for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

²⁸ In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for this investigation, Commerce will request information necessary to calculate the CV and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. Commerce no longer requires a COP allegation to conduct this analysis.

²⁹ *See Certain Steel Nails from the Socialist Republic of Vietnam: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review; 2014-2016*, 82 FR 26050 (June 6, 2017), unchanged in *Certain Steel Nails from the Socialist Republic of Vietnam: Final Results of Antidumping Administrative Review; 2014-2016*, 82 FR 45266 (September 28, 2017).

³⁰ *See* Vietnam AD Initiation Checklist.

³¹ *See* Volume V of the Petition at 10-13.

Factors of Production

Because information regarding the volume of inputs consumed by the Vietnamese producers/exporters is not available, the petitioner relied on the production experience of a U.S. wind tower producer as an estimate of Vietnamese manufacturers' FOPs.³² The petitioner valued the estimated FOPs using surrogate values from India and used the average POI exchange rate to convert the data to U.S. dollars.³³

Normal Value Based on Constructed Value

As noted above, the petitioner was unable to obtain information relating to the prices charged for wind towers in Canada, Indonesia, and Korea, or any third country market; accordingly, the petitioner based NV on CV.³⁴ Pursuant to section 773(e) of the Act, CV consists of the cost of manufacturing (COM), selling, general, and administrative (SG&A) expenses, financial expenses, packing expenses, and profit. For Canada, Indonesia, and Korea, the petitioner calculated the COM based on the input factors of production and usage rates from a U.S. producer of wind towers. The input factors of production were valued using publicly available data on costs specific to Canada, Indonesia, and Korea during the proposed POI.³⁵ Specifically, the prices for raw materials, reclaimed steel scrap, and packing inputs were valued using publicly available import data for Canada, Indonesia, and Korea.³⁶ Labor and energy costs were valued using publicly available sources for Canada, Indonesia, and Korea.³⁷ The petitioner calculated factory overhead, SG&A, and profit for Canada, Indonesia, and Korea based on the

³² See Vietnam AD Initiation Checklist.

³³ *Id.*

³⁴ See Canada AD Initiation Checklist; Indonesia AD Initiation Checklist; and Korea AD Initiation Checklist.

³⁵ See Canada AD Initiation Checklist; Indonesia AD Initiation Checklist; and Korea AD Initiation Checklist.

³⁶ See Canada AD Initiation Checklist; Indonesia AD Initiation Checklist; and Korea AD Initiation Checklist.

³⁷ See Canada AD Initiation Checklist; Indonesia AD Initiation Checklist; and Korea AD Initiation Checklist.

average ratios found in the experience of a producer of comparable merchandise from each of these countries.³⁸

Fair Value Comparisons

Based on the data provided by the Petitions there is reason to believe that imports of wind towers from Canada, Indonesia, Korea, and Vietnam are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for wind towers for each of the countries covered by this initiation are as follows: (1) Canada – 53.63 and 61.59 percent;³⁹ (2) Indonesia – 26.00 and 47.19 percent;⁴⁰ (3) Korea –280.69 and 331.26 percent;⁴¹ and (4) Vietnam – 39.97 to 65.96 percent.⁴²

Initiation of LTFV Investigations

Based upon the examination of the Petitions and supplemental responses, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of wind towers from Canada, Indonesia, Korea, and Vietnam are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

³⁸ See Canada AD Initiation Checklist; Indonesia AD Initiation Checklist; and Korea AD Initiation Checklist.

³⁹ See Canada AD Initiation Checklist.

⁴⁰ See Indonesia AD Initiation Checklist.

⁴¹ See Korea AD Initiation Checklist.

⁴² See Vietnam AD Initiation Checklist.

The petitioner named four companies in Canada,⁴³ two companies in Indonesia,⁴⁴ and three companies in Korea⁴⁵ as producers/exporters of wind towers. Following standard practice in AD investigations involving market economy countries, in the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select respondents in Canada and Korea based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) numbers listed with the scope in the Appendix.⁴⁶

On July 22, 2019, Commerce released CBP data on imports of wind towers from Canada, Korea, and Vietnam under administrative protective order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data must do so within three business days of the publication date of the notice of initiation of these investigations.⁴⁷

The CBP data identified only one company as a producer/exporter of wind towers in Indonesia: PT Kenertec Power System (Kenertec).⁴⁸ Kenertec was also identified in the petition as a producer/exporter of wind towers from Indonesia.⁴⁹ Accordingly, because there are no other producers/exporters identified in the CBP data, Commerce intends to examine the sole

⁴³ See Volume I of the Petitions, at Exhibit I-16.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ See, e.g., *Polyester Textured Yarn from India and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 58223, 58227 (November 19, 2018).

⁴⁷ See Memorandum, "Utility Scale Wind Towers from Canada: Release of Customs Data from U.S. Customs and Border Protection," dated July 22, 2019; Memorandum, "Utility Scale Wind Towers from the Republic of Korea: Release of Customs Data from U.S. Customs and Border Protection," dated July 22, 2019; and Memorandum, "Utility Scale Wind Towers from the Socialist Republic of Vietnam: U.S. Customs and Border Protection Data," dated July 22, 2019.

⁴⁸ See Memorandum, "Utility Scale Wind Towers from Indonesia: Release of U.S. Customs and Border Protection Data," dated July 22, 2019.

⁴⁹ See Volume I of the Petitions, at Exhibit I-16.

producer/exporter identified in the CBP data. Parties wishing to comment on the selection of Kenertec as a mandatory respondent must do so within three days of the publication of this notice. Any such comments must be submitted no later than 5:00 p.m. ET on the due date and must be filed electronically via ACCESS. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

The petitioner stated that CS Wind Vietnam Co. (CS Wind) is the only Vietnamese wind tower producer that is not currently subject to the existing AD order⁵⁰ on wind towers from Vietnam and, thus, the only company for which the Petition was filed with respect to Vietnam.⁵¹ As such, we will not conduct respondent selection based on quantity and value (Q&V) questionnaires as the Vietnam AD investigation only applies to CS Wind.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers normally must submit a separate-rate application.⁵² However, applicants which have been selected as mandatory respondents prior to the deadline for submission of separate rate applications are not required to file a separate rate application. Because CS Wind is the only company for which the Petition was filed with respect to Vietnam, CS Wind will be eligible for consideration for separate-rate status only if it responds to all parts of Commerce's AD questionnaire as a mandatory respondent.

⁵⁰ See *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 78 FR 11150 (February 15, 2013).

⁵¹ See Volume I of the Petitions at 1 n.1.

⁵² See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005), available at <http://enforcement.trade.gov/policy/bul05-1.pdf> (Policy Bulletin 05.1).

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.⁵³

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of Canada, Indonesia, Korea, and Vietnam via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of wind towers from Canada,

⁵³ See Policy Bulletin 05.1 at 6.

Indonesia, Korea, and/or Vietnam are materially injuring, or threatening material injury to, a U.S. industry.⁵⁴ A negative ITC determination for any country will result in the investigation being terminated with respect to that country.⁵⁵ Otherwise, the investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce’s regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted⁵⁶ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.⁵⁷ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of CV under section 773(e) of the

⁵⁴ See section 733(a) of the Act.

⁵⁵ *Id.*

⁵⁶ See 19 CFR 351.301(b).

⁵⁷ See 19 CFR 351.301(b)(2).

Act.⁵⁸ Section 773(e) of the Act states that “if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.” When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent’s initial section D questionnaire response.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by

⁵⁸ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁵⁹ Parties must use the certification formats provided in 19 CFR 351.303(g).⁶⁰ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

⁵⁹ See section 782(b) of the Act.

⁶⁰ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: July 29, 2019.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix

Scope of the Investigations

The merchandise covered by these investigations consists of certain wind towers, whether or not tapered, and sections thereof. Certain wind towers support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.*, where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.*, flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with nonsubject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof, unless those components are shipped with the tower sections.

Further, excluded from the scope of the antidumping duty investigations are any products covered by the existing antidumping duty order on utility scale wind towers from the Socialist Republic of Vietnam. *See Utility Scale Wind Towers from the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 78 FR 11150 (February 15, 2013).

Merchandise covered by these investigations is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7308.20.0020 or 8502.31.0000. Wind towers of iron or steel are classified under HTSUS 7308.20.0020 when imported separately as a tower or tower section(s). Wind towers may be classified under HTSUS 8502.31.0000 when imported as combination goods with a wind turbine (*i.e.*, accompanying nacelles and/or rotor blades). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigations is dispositive.

[FR Doc. 2019-16655 Filed: 8/2/2019 8:45 am; Publication Date: 8/5/2019]